

OLC 76-2189

3 AUG 1976

Mr. James M. Frey  
Assistant Director for Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Frey:

Enclosed is a proposed report to Chairman Rodino, House Committee on the Judiciary, in response to a request for testimony on various bills, pending before the Committee, to require officers and employees of the United States to file financial statements.

Advice is requested as to whether there is any objection to the submission of this report from the standpoint of the Administration's program. We would appreciate clearance of this report as soon as possible.

Sincerely,

SIGNED

George L. Cary  
Legislative Counsel

Enclosure

Distribution:

- Orig - Add'e, w/encl.
- 1 - OLC Subject, w/encl.
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OLC:WPB:ndl (3 August 1976)



Honorable Peter W. Rodino, Chairman  
Committee on the Judiciary  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request of 14 July 1976 for testimony on various bills, pending before the Committee, to require officers and employees of the United States to file financial statements. After consultation with the Committee staff, it was agreed that we could best assist the Committee by providing a written report on these proposals, supplementing our earlier report to the Committee of 29 January 1975. Since this latter report, the Senate has passed S. 495, the "Watergate Reorganization and Reform Act of 1976." Our comments are focused on Title III of S. 495, which deals with financial disclosure.

Section 302 of S. 495 contains a provision requiring Federal employees who are compensated at or over the grade of GS-16 salary level to file financial statements. These statements are required to be filed with the Comptroller General under Section 304(a)(1). However, paragraph (a)(4) of Section 304 grants the President authority to exempt any individual in certain intelligence agencies, including the Central Intelligence Agency, from the requirement of filing a report with the Comptroller General if the President finds that public disclosure "... would reveal the identity of an undercover agent of the Federal Government." In such cases, the statements of exempted employees are to be filed with the head of the agency involved.

The partial exemption provided in Section 304(a)(4) is viewed as what is minimally required for the successful conduct of U.S. intelligence activity. It is necessary to protect from disclosure the fact that certain employees are associated with intelligence agencies or the United States Government. However, the exemption does not recognize certain other security considerations of equal and broad significance.



For example, many persons in the Government, especially intelligence personnel, have access to highly sensitive information which would be extremely valuable to foreign intelligence services and for which foreign services are prepared to offer large sums of money. Attempts have been made to recruit such employees. The disclosure of the financial status of such personnel would clearly assist the intelligence services of other countries in identifying employees for possible recruitment approach. This consideration applies to all personnel in national security-related areas whether or not they are undercover intelligence personnel. As concerns the CIA, Congress has recognized that the Agency's ability to accomplish its unique mission could be jeopardized by the public disclosure of the names and certain other information concerning any of its employees. Accordingly, section 7 (now section 6) of the CIA Act of 1949 (50 U.S.C. 403g) states as follows:

"In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of any ... law which require(s) the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency...."

The financial disclosure provision in S. 495 would seriously conflict with section 6 of this Act.

It is requested that your Committee consider including in whatever financial disclosure legislation it ultimately reports an exemption for intelligence personnel which will reflect the considerations discussed above. We would appreciate the opportunity to work with appropriate Committee staff to develop a provision which is mutually satisfactory in this respect.

Finally, we would like to direct the Committee's attention to a provision in S. 495 which is inconsistent with and would therefore vitiate the exemption in Section 304(a)(4). Section 305(b) would require the head of each agency to submit annually to the Comptroller General a complete list of individuals required to file a report under Section 302. We believe that it was not intended that this list include those individuals exempted from filing reports with the Comptroller General under Section 304(a)(4). If the provision were construed otherwise, it would undermine the exemption in 304(a)(4) by requiring disclosure of the identities of those very undercover intelligence personnel which Section 304(a)(4) is designed to protect.

If identities of undercover intelligence personnel are to be protected, the lists required under Section 305(b) should include only those individuals who must file with the Comptroller General and exclude those who must file with the head of an agency under Section 304(a)(4).

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush  
Director

FROM	NO R 200116
<del>Central Intelligence Agency</del>	DATE
<del>Washington, D. C. 20505</del>	3 Aug 76
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Office of Management & Budget	<input checked="" type="checkbox"/> ENVELOPE (S)
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